



Department of Planning, Housing, & Community Development

Mayor, Richard C. David
Director, Dr. Juliet Berling

STAFF REPORT

ZBA Date: September 14, 2015
Project Address: 20 Hawley Street
Applicant: Alfred Weissman Real Estate, LLC
Tax ID Number: 160.49-1-22
Case Number: 2015-16
Zoning: Downtown Business District (C-2)

A. REVIEW REQUESTED

Hawley Street Members, LLC has submitted an application for an area variance for the distance of off-site parking in conjunction with an application for Series A Site Plan & Special Use Permit review for a proposed project involving new construction of additions to existing structures at the property known as 20 Hawley Street.

In the C-2 District, off-street parking requirements do not apply to uses proposed within existing structures where no opportunity to provide parking exists, however projects involving new construction or expansion must meet the requirement. The newly-constructed additions will contain 40 dwelling units, requiring provision of a minimum of 93 off-street parking spaces (40 x 2.33).

The applicant proposes to provide parking at 225 Water Street, which is at a distance of 1,425 feet from 20 Hawley Street. The maximum allowable distance for off-site parking in commercial districts is 800 feet, thereby requiring an area variance for the proposal. Although staff has determined the off-site parking facilities are 1,425 feet away from the primary use, the applicant has requested a variance to allow the provision of parking at a distance of 1,429 feet from 20 Hawley Street.

*Planning Commission is authorized to waive up to 20% of any off-street parking requirement. If granted, the total requirement for the site would be 74 spaces

	Proposed	Required	Variance Requested
Maximum distance of off-site parking for minimum parking requirement	1,425'	800'	629'

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Undesirable change**: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;
- (b). **Reasonable alternative**: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;
- (c). **Substantial request**: Whether the variance requested is substantial;
- (d). **Physical and Environmental Conditions**: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;
- (e). **Self-created hardship**: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. ADDITIONAL REVIEWS

The project requires Series A Site Plan / Special Use Permit approval from the Planning Commission.

The project requires 239-m Review due to its proximity to a Broome County-owned property. The County has recommended denial of the variance due to a lack of information. An update to the County's recommendation is pending after the submission of the requested information. If the County's recommendation for denial stands, the Zoning Board of Appeals will require a supermajority (4 votes) to approve the variance.

C. SITE REVIEW

The property known as 20 Hawley Street is a rectangular-shaped parcel containing approximately 1.72 acres of land. It is bound by Hawley Street to the north, State Street to the east, Stuart Street to the south, and Washington Street to the west. The site is currently improved with a mixed-use development, consisting of residential units occupying the 2nd-9th floors (80 units/253 bedrooms) and portions of the 1st floor (11 units/39 bedrooms) with the remainder of the ground floor, approximately 9253 sf. reserved for commercial occupancy; a 2 one-story "annex buildings," with 8750 square feet each; and a landscaped plaza in the center of the property. Prior to the existing mixed-use occupation, the existing structures had been utilized for a variety of uses, including a bank.

The subject site offers 174 parking spaces in a sub-surface garage for tenant use, is located in close proximity to on-street metered parking spaces. A total of 295 parking spaces would be required for the existing uses if the building was not pre-existing. The subject site is within less than 150 feet of a public parking facility and within 800 feet of several private parking facilities. Bicycle racks accommodating 54 bicycle parking spaces are located outside 3 access points to the primary structure, and 18 bicycle parking spaces are offered within

the sub-surface garage. Public transportation serves the site in the form of 2 bus services, Broome County Transit and Off Campus College Transport, Inc. OCC Transport is a free shuttle for Binghamton University students to its Vestal campus that operates during the academic year (2 stops an hour, Monday thru Friday (7:00am-1:00am) and hourly service on weekends) from the University Downtown Center located ~150 feet from the subject property. A new B.C. Transit bus stop will be added at the northwest corner of the site, including a new bus shelter and benches to be installed by the applicant. Additionally, 6 BC Transit bus route stops are located within close proximity of the site.

Land use in the vicinity of 20 Hawley Street is primarily mixed-use, multi-story structures and public buildings. The Broome County Veterans Memorial Arena is located to the south of the site, a commercial plaza containing a Holiday Inn hotel is located to the west, and Government Plaza to the east. The Collier Street Public Parking Garage occupies the northeast corner of State Street and Hawley Street, the Bache Building (professional offices) occupies the northwest corner. The Binghamton University Downtown Center (UDC) is located southwest of the subject property on Washington Street.

D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

August 2, 2010, the Planning Commission granted SUP/Series-A Site Plan approval for a mixed-use project involving the conversion of existing primary structure's (former Marine Midland Bank) 2nd-9th floors to residential units (55 units/210 bedrooms) to multi-unit dwelling, with the 1st floor and two on-site annex buildings reserved for commercial use.

May 2, 2011, the Planning Commission granted SUP/Series A Site Plan Modification approval for modifications to a previously approved (August 2, 2010) mixed-use project in the C-2 District, to convert the 2nd-9th floors of the primary structure to 80 units/253 bedrooms, and convert portions of the 1st floor and annex buildings to residential units (11 units/39 bedrooms).

June 1, 2012, Series A Site Plan Review Exception approval was granted for a use of Restaurant, Take-Out/Carry-Out for Brewed Awakenings Café within a ~2,000 SF 1st floor tenant space.

September 26, 2013, the applicant withdrew an application to for Series A Site Plan/SUP to construct an addition containing 40 residential units to the existing building.

September 26, 2013, the applicant withdrew an application for an area variance for parking.

October 4, 2013, the applicant submitted a revised Series A Site Plan/SUP to construct an addition containing 40 residential units to the existing building, including a request to apply Sections 410.51(E)(1) and (H), such that the applicant did not have to provide onsite parking.

October 28, 2013, the Superintendent of Building and Construction issues a determination that based on Sections 410.51(E)(1) and (H) the applicant did not have to provide onsite parking.

November 13, 2013, the Planning Commission provides notice of intent to be lead agency under SEQR and determines the proposed project to be an Unlisted action.

November 21, 2013, Washington Street Associates, appeals the Superintendent's decision to the ZBA.

March 4, 2014, the ZBA overturned the Superintendent's decision. The applicant appealed the ZBA's determination to the Broome County Supreme Court.

July 28, 2014, the Supreme Court overturned the ZBA's decision and affirmed the Superintendent's decision. In addition, Planning Department is authorized to determine if the capacity of said public parking facility, including the turnover factor, has already been reached.

February 4, 2015 the Supreme Court issued a decision annulling the approval of the project and remitting it to the Planning Commission, based on the determination that the project should have been classified as a Type I action due to its proximity to the Court Street Historic District (the Historic District).

E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **TYPE I** Action. The Planning Commission will serve as the Lead Agency.

F. STAFF FINDINGS

1. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.

The character of the neighborhood is that of a dense downtown district with many multi-story, mixed-use, zero-lot-line structures; granting the requested variance will not produce a negative change in the character of the neighborhood.

2. The Zoning Board of Appeals must determine if there are any reasonable alternatives to the proposed variances.

Creation of an on-site surface parking area to meet the off-street parking requirement would not be consistent with Blueprint Binghamton goals for a dense, walkable urban core, and would limit the applicant's ability to provide public amenities such as trees, trash receptacles, planters and benches.

3. The Zoning Board of Appeals must determine if the requested area variance is substantial.

The request is for an additional 629 feet of distance for the provision of off-site parking. This amounts to an additional two (2) city blocks of walking distance between 20 Hawley Street and the off-site parking facilities. The applicant has proposed providing a shuttle service between 20 Hawley Street and the off-site parking facilities. The requested area variance is not considered substantial.

4. The Zoning Board of Appeals must determine whether the alleged difficulty was self-created.

The alleged difficulty is not self-created. The applicant initially proposed the use of the Collier Street parking garage, which is within 800' of 20 Hawley Street, to meet the minimum parking requirement. Due to structural concerns, the upper stories of the garage were closed, thereby reducing the capacity of the facility. The Planning Department determined that the garage was at full capacity, and, therefore, could not be used by the applicant to meet the minimum parking requirement for their proposal.